

Commonwealth of Massachusetts
HOME Investment Partnerships Program/Housing Stabilization Fund
Project-Based Homeownership Program
Application Guidelines

A. Overview

The Commonwealth of Massachusetts Department of Housing and Community Development (DHCD) uses HOME/HSF funds to support the acquisition and/or rehabilitation of existing structures, including distressed or failed properties, for sale to income-eligible first-time homebuyers. DHCD also uses HOME/HSF funds to support the new construction of homeownership projects.

The U.S. Department of HUD has promulgated regulations and issued guidelines governing the use of HOME funds for homeownership projects. All applications to DHCD for HOME homeownership projects must conform in every respect to HUD's requirements.

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Applicants for homeownership funds should note that DHCD has defined an eligible purchaser of a HOME/HSF-assisted homeownership property as a first-time homebuyer. A first-time homebuyer is defined as an individual or an individual and his or her spouse who have not owned a home during the 3-year period before the purchase of a home with HOME/HSF assistance, except that:

1. Any individual who is a displaced homemaker ***may not be excluded*** from consideration as a first-time homebuyer on the basis that the individual, while a homemaker, owned a home with his or her spouse or resided in a home owned by the spouse;
2. Any individual who is a single parent ***may not be excluded*** from consideration as a first-time homebuyer on the basis that the individual, while married, owned a home with his or her spouse or resided in a home owned by the spouse; and
3. Any individual who owns or owned a dwelling unit whose structure is not permanently affixed to a permanent foundation or is not in compliance with State, local, or other applicable codes and cannot be brought into compliance with such codes for less than the cost of constructing a permanent structure ***may not be excluded*** from consideration as a first-time homebuyer.

All first-time homebuyers must qualify as low-income at the time of occupancy or at the time HOME/HSF funds are invested, whichever is later. Please note that HUD generally permits income verifications dated no earlier than 6 months prior to eligibility.

Applicants for DHCD HOME/HSF homeownership funds may seek any of the distribution forms allowed by HUD/DHCD regulations (i.e., low-interest loans, zero-interest deferred-payment

loans, etc.). The Commonwealth does not encourage applications for grants. Priority for funding will be given to projects that meet the criteria included in these guidelines on page 4.

B. Eligible and Ineligible Property Types

HOME/HSF project-based homeownership funds may be used for the following types of properties:

- 1-4 family residence
- condominium unit
- manufactured home and lot

Currently, DHCD gives priority to projects consisting of either 1-4 family properties or condominium units. Properties included in an application may be located on a single site or on scattered sites. At the time of sale to first-time homebuyers, newly constructed housing or standard housing developed with HOME/HSF funds must have a purchase price that falls within the DHCD HOME/HSF Sales Price Limits.

DHCD anticipates that properties included in the application that are to be acquired and rehabilitated will have low acquisition costs due to the level of rehabilitation required to bring them into compliance with applicable codes and standards.

DHCD will not accept homeownership applications for projects containing less than 3 HOME/HSF-assisted ownership units, each of which must be secured with a signed Purchase & Sale Agreement at the time of application. Please note that projects containing twelve or more HOME-assisted units (i.e., ownership or ownership with rental units) must adhere to all provisions of the Davis-Bacon Act.

C. Eligible and Ineligible Homeownership Project Costs

HOME/HSF funds for homeownership projects may be used for development hard costs and soft costs. Eligible hard costs include:

- Cost of constructing or rehabilitating housing;
- Cost of acquiring property or vacant land;
- Cost of essential improvements including abatement of lead-based paint hazards, repair or replacement of major housing systems in danger of failure, energy-related repairs or improvements, and improvements to permit use by persons with disabilities;
- Cost of making utility connections;
- Cost of site improvements such as on-site roads and sewer and water lines; and,
- Cost to demolish existing structures.

Eligible related soft costs include:

- Financing costs, such as building permits, construction loan interest, legal and developer fees, property appraisals, credit and title costs, etc.;

- Engineering, architectural, or related professional services;
- Project audit costs;
- Relocation costs, affirmative marketing, and fair housing information;
- Staff and overhead costs directly related to carrying out the project; and,
- Housing counseling costs.

HUD requirements specifically state that project soft costs must be "reasonable and necessary".

Purposes for which DHCD HOME/HSF homeownership program funds may not be used include:

- Providing non-federal matching contributions required under any other federal program;
- Providing assistance to a project previously assisted with HOME/HSF funds during the established period of affordability; or,
- Acquiring property owned by the Commonwealth of Massachusetts, unless the property is acquired in anticipation of carrying out a HOME/HSF project
- Payment of back taxes or property liens; however a seller may use HOME/HSF acquisition funds to clear title.

D. Property Standards

Housing that is constructed or rehabilitated with HOME/HSF funds must meet all applicable state and local codes, rehabilitation standards, ordinances, and zoning ordinances at the time of project completion. In addition, all eligible new construction must meet and be certified under National Energy Five Star Standards and new construction also must meet the current edition of the Model Energy Code published by the Council of American Building Officials. All other HOME/HSF- assisted housing (e.g. acquisition) must meet all applicable State and local housing quality standards and code requirements including the U.S. Department of HUD's Housing Quality Standards.

HUD Federal lead-based paint regulations at 24 CFR Part 35 apply to all projects that are awarded HOME monies.

Please Note: With respect to project design guidelines, including "green design" and building wiring, applicants should consult the HOME/HSF/CIPF/CATNHP Construction/Rehabilitation Guidelines (6/07) and the 2007 Tax Credit QAP.

Renewable Energy / "Green" Building

Projects incorporating renewable energy (photovoltaic, wind or hydro) *and* "green" building features should highlight those aspects of the proposal in the application cover letter (described below).

E. Expenditure Limits for Project-Based Homeownership Developments

At present, DHCD will not review applications for projects requesting more than \$50,000 per HOME/HSF-assisted unit in HOME entitlement/consortium communities or \$65,000 in non-entitlement communities provided that no other DHCD sources are requested. In addition,

DHCD limits per project HOME/HSF requests to \$750,000. To be competitive, total development costs (TDC) must be reasonable per industry standards and mixed income projects must demonstrate that the sales prices of any unrestricted unit covers its development cost.

In order for DHCD to consider a project as ready for application submittal, the sponsor should be able to meet all of the following criteria and submit all of the following documentation:

1. Narratives indicating that the proposed project is consistent with the principles of sustainable development
2. Evidence of funding commitments for all other sources of funding
3. No demolition, remediation and/or construction may have begun prior to DHCD application submittal
4. Evidence of as-of-right or zoning approvals and/or a completed 40B or Article 80 process
5. Evidence of site control for all parcels and buildings (i.e., deed, purchase & sale agreement, purchase options or designated developer agreement)
6. Comprehensive Sources and Uses that addresses such areas as bonding, clerk of works, security, etc.
7. Reasonable developer fees with projects that include market rate units
8. Draft plans & specifications for design of the site and building(s)
9. Estimates for construction from a general contractor or professional cost estimator
10. Completed ASTM Phase I environmental report, lead paint report for both structures and soil, and radon tests for all structures. (If any of the reports recommend remediation, the sponsor must submit a soil remediation plan.)
11. Submission of as-is and as-completed appraisals
12. Sign-off from Massachusetts Historic Commission
13. Market data clearly demonstrating the marketability and absorption rate of both affordable and market rate units. Supporting documentation should present comparable sales, housing & demographic trends, appropriateness of project's location and design, and affordability of the affordable units (include property management information and/or condominium fee structure). Applicants who provide compelling market data evidencing their project's marketability may be scored more competitively.
14. Detailed buyer selection & local preference plan (-including primary place of employment as a local preference eligibility factor)
15. Detailed marketing plan, including a description of pre & post-purchase counseling associated with this particular project
16. Narrative describing how the marketing, buyer selection and other applicable policies will incorporate the Department's Fair Housing Principles, including outreach to households least likely to apply
17. Sales prices for affordable units set within DHCD limits, but still affordable to households at 70% of the area median income, given the parameters (tax rates, condo fees, etc.) of a particular deal
18. Evidence of lender interest in providing end loans
19. Evidence of neighborhood processing & support- (In entitlement/consortium communities, developers must secure a commitment of matching funds)
20. Photographs of the buildings or parcels

In addition, the sum total of developer's fee, developer overhead and development consultant's fee may not exceed 12.5% of the sum of, acquisition, hard and soft costs.

F. Long-Term Affordability

As HOME-assisted units are sold to eligible first-time homebuyers, each deed will include a deed rider restricting the use and subsequent resale of the unit for a period of at least 15 years. As HSF-assisted units are sold to eligible first-time homebuyers, each deed will include a deed rider restricting the use and subsequent resale of the unit for a period of **at least** 50 years. Both the HOME and HSF deed restrictions require that the property serve as the purchaser's primary residence during the term of the restriction.

The deed restriction also requires that any HOME-assisted rental units in the property must remain affordable for at least 15 years and that any HSF-assisted rental units remain affordable for at least 50 years. In order to be counted in the 40 B affordable housing inventory, the terms of affordability for HOME-funded projects must be at least 20 years. DHCD requires that all HOME and HSF-assisted rental units in homeownership properties be affordable to persons at or below 60% of the area median income at initial occupancy. They may be leased at the "high" HOME rent, which is the lesser of either:

1. The Section 8 Fair Market Rent (FMR), or
2. A rental rate equal to or less than 30% of adjusted income for individuals or households whose incomes are 65% of area median, minus tenant-paid utilities.

At the time of initial rent-up and on an annual basis thereafter, property owners must certify tenant incomes, rents, and utility allowances and present their findings to DHCD.

If an owner desires to sell the property prior to the end of the term of the deed rider, certain resale/recapture provisions apply.

G. DHCD Funding Priorities

DHCD has established funding priorities for applications seeking DHCD HOME or HSF funds. DHCD strongly encourages projects with certain special characteristics and will give priority to:

1. Projects that are consistent with the principles of sustainable development;
2. Projects that include the production of new housing units;
3. Projects with official local support;
4. Projects that are a part of a comprehensive neighborhood planning effort;
5. Inclusion of Minority/Women's Business Enterprise (MBE/WBE) members on the development team, as evidenced by SOMWBA certification;
6. Projects with low total development costs;
7. Projects with low soft costs and developer's fee;
8. Projects seeking minimal DHCD assistance;
9. Projects that include moderate and market rate units;
10. Projects that provide evidence of support from area employers;

11. Projects located in communities that do not receive federal HOME funds directly from HUD;

DHCD encourages projects that are sponsored/developed/owned by organizations certified as Community Housing Development Organizations (CHDO) or by non-profits.

In addition to the priorities listed above, applicants for DHCD HOME and HSF funds should note the following:

- If an application is submitted for a project located in a HOME entitlement or consortium community, the application *must* include a commitment of local funds. In general, preference will be given to applications with full match commitments.
- In general, applications with per unit costs exceeding reasonable industry standards may not be competitive.

H. Buyer Selection

Applications for DHCD HOME or HSF funds must include a description of the process that will be used to select first-time homebuyers. Buyers must be approved in accordance with Definition 1 (Annual Income as Defined in 24 CFR Part 5) of the Technical Guide for Determining Income and Allowances for the HOME Program (HUD-1780-CPD). DHCD also has implemented a policy limiting assets and certain forms of financing in our project-based homebuyer programs. At the time of application and/or at the time of eligibility determination, cumulative potential HOME or HSF-assisted household assets may not exceed \$75,000; these assets include any financial assistance that may be gifted to help with downpayment. All HOME or HSF-assisted households must obtain conforming loans with fixed rates for 30-year terms or for the period of affordability, whichever is less. Homebuyer loans also must be for at least 50% of the sales price and applicant ratios must be reasonable. DHCD reserves the right to review mortgage products.

The buyer selection plan must describe the affirmative marketing strategy that will be undertaken to attract buyers. In the event that there are more applicants than units, it is expected that a lottery will be conducted. The sponsor shall include a lottery description, including information on the assignment of units, pools, priorities/point systems, anticipated timeline, and applicant notification procedure. Please note the following:

A buyer selection plan cannot have the effect of excluding non-residents.

Municipalities collaborating in the lottery may specify that there be a local preference for up to 70% of the affordable units. The Zoning Board of Appeals in conjunction with the local housing partnership or housing committee, the local housing authority, or other municipal boards should determine the types of local preference. The ZBA may delegate the determination of local preference to these other local agencies, especially the local housing partnership.

Typical local preferences are as follows:

(The following categories are equal in priority)

1. Current Residents
 - A household in which one or more members is living in the city or town at the time of application. Documentation of residency should be provided, such as rent receipts, utility bills street listing or voter registration listing.
2. Family of Current Residents
 - Close relatives, including children or parents, of a current resident of the city or town.
3. Municipal Employees
 - Employees of the municipality, such as teachers, firefighters, police officers, librarians, or town hall employees.
4. Employees of Local Businesses
 - Employees of businesses located in the municipality.

The developer and the municipality may negotiate other preference categories or variations of the above categories. However, to ensure that these preferences do not violate applicable fair housing laws, the following procedures should be followed:

A lottery for projects including local preference should have two applicant pools: a local preference pool and an open pool. After the application deadline has passed, the municipality should determine the number of local resident minority households in the municipality and the percentage of minority applicants in the local preference pool. If the percentage of minorities in the local resident households and in the local preference pool is less than the percentage of minorities in the surrounding HUD-defined area, the municipality/developer should make the following adjustments to the local preference pool:

The municipality/developer should hold a preliminary lottery comprised of all minority applicants who did not qualify for the local preference pool, and rank the applicants in order of drawing. Minority applications should then be added to the local preference pool in order of their rankings until the percentage of minority applicants in the local preference pool is equal to the percentage of minorities in the surrounding HUD-defined area. Applicants should be entered into all pool for which they qualify. For example, a local resident should be included in both pools.

Minorities should be identified in accordance with the regulatory classifications established by HUD.

If the project includes units accessible or adaptable for occupancy by physically disabled persons in conformity with requirements of G.L. c.22§13A and the Architectural Access Board, preference for those units shall be given to such physically disabled persons. If the project is presented with an applicant with a need for an accessible unit or accessible features, the sponsor should have a system for accommodating reasonable need; this system shall be described as part of the buyer selection plan.

I. Application Process for HOME or HSF Funds

The Department of Housing & Community Development (DHCD) allocates HOME and HSF through competitive funding rounds. A Notice of Funding Availability (NOFA) is published periodically, as funding permits. Project sponsors seeking HOME or HSF funds must submit applications using the One-Stop Affordable Housing Finance Application. Only One-Stop CD's and forms will be accepted by DHCD. Please note: the most current version of the One-Stop can be accessed at www.onestopapp.com. An application consists of four hard copies, 1 disk, and 1 set of plans.

Applications should be sent to:

**HOME & HSF Programs
Department of Housing & Community Development
Division of Housing Development
100 Cambridge Street, Suite 300
Boston, MA 02114**